

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CARDINAL HEALTH 106, INC.,
f/k/a James W. Daly, Inc.,
d/b/a Cardinal Health,

Plaintiff,

v.

ALDAMEL, INC.,
d/b/a Crescent Pharmacy, et al.,

Defendants.


CIVIL ACTION
No. 04-10358-RWZ

NOTICE OF FILING

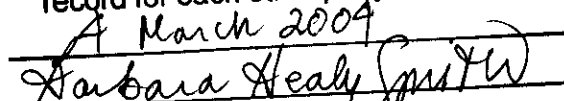
PLEASE TAKE NOTICE that on this day the original certified or attested to copies of the state court pleadings received from the Clerk/Magistrate of the Essex Superior Court, were filed with the United States District Court.

MICHAEL J. SULLIVAN,
UNITED STATES ATTORNEY

BY:


Barbara Healy Smith
Assistant U. S. Attorney
U.S. Courthouse - Suite 9200
1 Courthouse Way
Boston, MA 02210
(617) 748-3282

I hereby certify that a true copy of the
above document was served upon (each
party appearing pro se and) the attorney of
record for each other party by mail on

March 2004

Assistant U. S. Attorney

ESCV2004-00045

Cardinal Health 106 Inc v Aldamel Inc et al

File Date	01/12/2004	Status	Disposed: transferred to other court (dtrans)	
Status Date	02/26/2004	Session	A - Civil-CtRm 2 -rear (Salem)	
Origin	1	Case Type	D13 - Declaratory judgement (231A)	
Lead Case		Track	A	
Service	04/11/2004	Answer	06/10/2004	Rule12/19/20 06/10/2004
Rule 15	04/06/2005	Discovery	03/02/2006	Rule 56 05/01/2006
Final PTC	08/29/2006	Disposition	01/11/2007	Jury Trial No

PARTIES

Plaintiff

Cardinal Health 106 Inc
Active 01/12/2004

Private Counsel 546916

Jeffrey B Loeb
The Weld Building
176 Federal Street 6th floor
Boston, MA 02110
Phone: 617-556-3800
Active 01/12/2004 Notify

Alias defendant name

James W Daly Inc
Active 01/12/2004

Doing busnss as (alias)

Cardinal Health
Active 01/12/2004

Defendant

Aldamel Inc
Served: 01/20/2004
Served (answr pending) 02/02/2004

A TRUE COPY, ATTEST

DEPUTY ASST. CLERK

ESCV2004-00045

Cardinal Health 106 Inc v Aldamel Inc et al

Doing busnss as (alias)

Crescent Pharmacy

Active 01/12/2004

Defendant

AmeriSource Berger Drug Corporation

Served: 01/15/2004

Served (answr pending) 02/02/2004

Alias defendant name

AmeriSource Corporation

Active 01/12/2004

Defendant

James Brudnick Company Inc

Served: 01/15/2004

Served (answr pending) 02/02/2004

DefendantCommonwealth of Massachusetts Department of
Revenue

Service pending 01/12/2004

Private Counsel 435260

Eileen Ryan McAuliffe

Mass Revenue Dept

100 Cambridge Street

PO Box 9565

Boston, MA 02114-9565

Phone: 617-626-3217

Fax: 617-626-3245

Active 02/06/2004 Notify

Defendant

Internal Revenue Service

Served: 01/14/2004

Served (answr pending) 02/02/2004

ESCV2004-00045

Cardinal Health 106 Inc v Aldamel Inc et al

Date	Paper	Text
01/12/2004	1.0	Complaint & civil action cover sheet filed
01/12/2004		Origin 1, Type D13, Track A.
02/02/2004	2.0	SERVICE RETURNED: Aldamel Inc(Defendant) in hand to Brenda Rongone, agent in charge at time of service filed 1/28/04
02/02/2004	3.0	SERVICE RETURNED: Internal Revenue Service(Defendant) in hand to Florence Cavalier, agent, in charge at time of service filed 1/28/04
02/02/2004	4.0	Affidavit of Jeffrey Loeb, regarding service to James Brudnick Company, Inc., and AmeriSource Bergen Drug Corporation, by certified mail, return receipt, copies, Filed 1/28/04
02/02/2004	4.1	SERVICE RETURNED (summons): James Brudnick Company Inc, service made on January 15, 2004 (copy of certified mail) see affidavit, filed 1/28/04
02/02/2004	4.2	SERVICE RETURNED (summons): AmeriSource Berger Drug Corporation, service made on January 15, 2004 (copy certified mail) see affidavit of service filed 1/28/04
02/06/2004	5.0	Atty Eileen Ryan McAuliffe's notice of appearance for Commonwealth of Massachusetts Department of Revenue filed 2/5/04
02/26/2004	6.0	Notice of Filing of Notice of Removal from this Court to United States District Court for the District of Massachusetts, Cert of Service. All correspondence received from this day forward to be sent to Barbara Healy Smith, Esq., Assistant United States Attorney, U.S. Courthouse, One Courthouse Way, Suite 9200, Boston, MA 02110..

EVENTS

Date	Session	Event	Result
01/12/2005	Civil-CtRm 2 -rear (Salem)	Status: by clerk Anniversary Fee.	

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss

SUPERIOR COURT DEPARTMENT
CIVIL NUMBER

Cardinal Health 106, Inc.,)
f/k/a James W. Daly, Inc., d/b/a)
Cardinal Health,)
Plaintiff,)

A

4 0045

v.)

COMPLAINT

Aldamel, Inc.,)
d/b/a Crescent Pharmacy,)
AmeriSource Berger Drug)
Corporation f/k/a AmeriSource)
Corporation,)
James Brudnick Company, Inc.,)
Commonwealth of Massachusetts)
Department of Revenue, and)
Internal Revenue Service,)
Defendants.)

1. Cardinal Health 106, Inc., f/k/a James W. Daly, Inc., the Plaintiff in the above-captioned Action, is a Massachusetts corporation with a usual place of business located in Peabody, Essex County, Massachusetts.

2. Aldamel Inc., d/b/a Crescent Pharmacy, a Defendant in the above captioned Action, purports to be a Massachusetts corporation with a usual place of business located at 351 Salem Street, Woburn, Massachusetts.

3. AmeriSource Berger Drug Corporation f/k/a AmeriSource Corporation, a Defendant in the above-captioned Action, purports to be a Delaware corporation, with a usual place of business located at 1300 Morris Drive, Suite 100, Chesterbrook, Pennsylvania.

4. The James Brudnick Company, Inc., a Defendant in the above-captioned Action, purports to be a Delaware corporation with a usual place of business located at 1300 Morris Drive, Chesterbrook, Pennsylvania.

5. The Department of Revenue for the Commonwealth of Massachusetts, a Defendant in the above-captioned Action, is a division of the Commonwealth of Massachusetts with a usual place of business located at 51 Sleeper Street, Boston, Massachusetts.

6. The Internal Revenue Service, a Defendant in the above-captioned Action, has a usual place of business located at 1 Montvale Avenue, Stoneham, Massachusetts.

7. The Plaintiff is a judgment creditor of Aldamel, Inc., having obtained a judgment in the amount of \$38,919.34 in the Peabody District Court in the civil action titled James W. Daly, Inc., v. Aldamel, Inc., Civil Action Number 9536CV0053.

8. On or about October 11, 1996, the Plaintiff brought a Reach and Apply Action against Aldamel, Inc., and Kemper National Insurance Company (hereinafter "Kemper") in the Essex County (Massachusetts) Superior Court.

9. On or about November 4, 1996, the Plaintiff obtained an Order from the Essex County (Massachusetts) Superior Court enjoining Kemper from making any payments to Aldamel, Inc.,

10. As the Plaintiff was a judgment creditor, the effective date of its lien is October 11, 1996.

11. On or about August 26, 1999, final judgment was entered in favor of the Plaintiff in the Essex County (Massachusetts) Superior Court (a copy of the judgment is attached hereto as Exhibit 1).

12. In or around March 2002, Aldamel, Inc. and Kemper entered into an agreement pursuant to which Kemper agreed to pay Aldamel, Inc. \$20,000 as full settlement of Aldamel, Inc.'s claims.

13. On or about May 27, 2003, Kemper issued a check in the amount of \$20,000 payable to Aldamel, Inc., d/b/a Crescent Pharmacy and M.P. Hickey, Esq. and the Internal Revenue Service and the J. Brudnick Co., Inc., and the Commonwealth of Massachusetts and J. W. Daly, Inc., and AmeriSource Corporation.

14. Each of the parties to this Action has asserted an interest in the above referenced settlement proceeds.

15. The Internal Revenue Service has provided documentation to support its claim of a priority lien in the amount of \$8,344.84.

16. None of the other Defendants have provided any justification for their apparent claim that they are entitled to a portion of the above referenced settlement proceeds.

17. Despite repeated demands, Aldamel, Inc., d/b/a Crescent Pharmacy has refused to acknowledge the Plaintiff's lien on the above referenced settlement proceeds.

18. An actual controversy exist between the parties relative to their entitlement to a portion of the above referenced settlement proceeds.

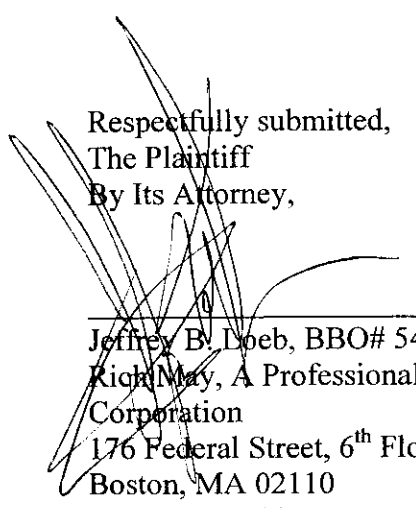
Wherefore, Cardinal Health 106, Inc., the Plaintiff in the above-captioned Action, respectfully requests that this Court issue an Order:

A. Determining the extent and priority as to the lien that each of the parties to this Action has on Kemper Insurance Company's claim check number 522-0-222-620 in the amount of \$20,000 and any replacement check;

B. Order each party to endorse Kemper Insurance Company's claim check number 522-0-222-620 and any replacement check so that the proceeds can be distributed based upon the priority of the liens held by each party;

C. Grant such other and further relief as this Court deems just and appropriate.

Respectfully submitted,
The Plaintiff
By Its Attorney,



Jeffrey B. Doeb, BBO# 546916
Rich May, A Professional
Corporation
176 Federal Street, 6th Floor
Boston, MA 02110
(617) 556-3800

Dated January 9, 2004